

Federal Communications Commission

DA 00-777

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Lampasas and Leander, Texas)

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MM Docket No. 99-344
RM-9709

DISTRICT

APR 12 1 20 PM '00

FCC MAIL SECTION

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 29, 2000

Released: April 7, 2000

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Shamrock Communications, Inc. ("Shamrock"), the Commission has before it for consideration the Notice of Proposed Rule Making, 14 FCC Rcd 2145 (1999), requesting the reallocation of Channel 255C1 from Lampasas, Texas, to Leander, Texas, and modification of the license for Station KJFK to specify Leander as the community of license. Shamrock filed supporting comments in which it stated its intention to file an application for Channel 255C1 at Leander. No other comments were received in response to the Notice in this proceeding.

2. Based upon the information presented in this proceeding, we believe the public interest would be served by reallocating Channel 255C1 from Lampasas, Texas, to Leander, Texas, since it would result in a preferential arrangement of allotments pursuant to the Commission's Change of Community procedures. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990). As stated in the Notice, Leander is an independent community, separate from the Austin, Texas metro area, having its own post office and zip code and its own school district, The Leander Independent School District. Leander has its own city government, police and fire departments, municipal court, water treatment facility, library and chamber of commerce. Many businesses identify themselves as being part of the community such as the Leander Animal Clinic, Leander Autoworks, Leander Grocery, Leander Real Estate and Leander Pharmacy as well as five churches that identify themselves as being part of Leander. Shamrock called our attention to the fact that Leander is located in Williamson County, 37 kilometers from downtown Austin and 18 kilometers from the Austin city line at its nearest point. Although not required, Shamrock provided a Tuck showing in its Petition for rule Making demonstrating Leander's status as community independent of an urbanized area.¹ A staff

¹ See RKO General (KFRC), 5 FCC Rcd 3222 (1990) and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988). Under

engineering analysis shows that Station KJFK already covers approximately 45% of the city of Austin and 70% of the Killeen, Texas Urbanized Areas with 70 dBu coverage from its current licensed site at Lampasas. Station KJFK will not be moving into the urbanized areas as it currently serves both Urbanized Areas from its licensed site at Lampasas and is the same site utilized for the proposed change of community.² Leander would receive its first local service thus fulfilling allotment priority (3) of the Commission's allotment priorities.³ This action will not deprive Lampasas of local service as Station KCYL(AM) is licensed to Lampasas. Retention of Channel 255C1 in Lampasas would be considered under priority (4), other public interest matters.

3. The reallocation proposal is consistent with the requirements set forth in Change of Community, *supra*. As stated in the Notice, there will be no decline in service area or number of listeners reached because Station KJFK does not intend to change its transmitter location. Station KJFK will continue to provide a city-grade signal to the residents of Lampasas without disruption. Further, our analysis indicates that the reallocation will not remove service from a rural area to serve an urban area as Leander is not located within a U.S. Census Urbanized Area.

4. Channel 255C1 can be allotted to Leander, Texas, in compliance with the Commission's minimum distance separation requirements at Shamrock's specified site.⁴ In accordance with Section 1.420(i) of the Commission's Rules, we will modify the license for Station KJFK to specify operation on Channel 255C1 at Leander, Texas, as its new community of license.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 22, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Tuck, the Commission considers evidence under three factors to determine whether a suburban community deserves a first local service preference: (1) signal population coverage; (2) size and proximity of the suburban community relative to the adjacent community; and (3) the interdependence of the suburban community with the central city.

² If a station requests to change its community of license to one that is outside an urbanized area but whose signal would place a city grade, 70 dBu signal, over 50% or more of an Urbanized Area, the proponent is required to provide the same showings as currently required for those parties seeking to move to a community within an Urbanized Area. See Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995).

³ The FM allotment priorities are: (1) First full-time aural service; (2) Second full-time service; (3) First local service; and (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3).] See Revision of FM Assignment Policies and Procedures, 90 FCC Rcd 29 88 (1982).

⁴ The coordinates for Channel 255C1 at Leander are 30-43-34 and 97-59-23. Although Leander is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government for the reallocation of Channel 255C1 from Lampasas to Leander was not required since Station KJFK is not changing its assigned channel of operation or relocating its transmitter site. The Mexican Government will be advised of the change to the FM Table of Allotments.

Community	Channel Number
Lampasas, Texas	-----
Leander, Texas	255C1

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Shamrock Communications, Inc. for Station KJFK, Channel 255C1, Lampasas, Texas, IS MODIFIED to specify operation on Channel 255C1 at Leander, Texas, subject to the following conditions:

a) Nothing contained herein shall be construed as authorizing any change in license BMLH-19930621KA except for the community as specified above. Any changes, except those specified, require prior authorization pursuant to an application for construction permit. (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BMLH-19930621KA except for the community as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Shamrock Communications, Inc., licensee of Station KJFK, is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license from Lampasas, Texas to Leander, Texas.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions relating to the application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau**